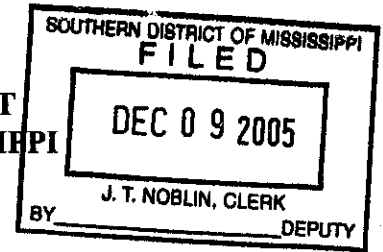


IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
JACKSON DIVISION



UNITED STATES OF AMERICA

vs.

Criminal No. 3:03cr30WS
Third Superseding Indictment

LEVON EDMOND, KATHLEEN NELSON,
ROOSEVELT WALKER, and SHUNTERRIA
EDMOND WIGGINS

ORDER

This cause is before the Court on the motion *in limine* filed by Defendant Kathleen Nelson to exclude the Government's use of cell site records and expert testimony at trial. The other defendants joined *ore tenus* in the motion. Having considered the motion, the Court finds the motion is not well taken and will be denied.


After hearing the testimony of government witness Scott Baxter, the Court finds that the expert testimony meets the requirements enunciated in *Daubert v. Merrell-Dow Pharmaceuticals, Inc.* and *Kumho Tire, Co., LTD, v. Carmichael* 509 U.S. 579 (1993); 526 U.S. 137 (1998). In *Daubert*, the Supreme Court set out four non-exclusive factors to aid in the determination of whether the methodology is reliable. They are: (1) whether the theory or technique has been tested; (2) whether the theory or technique has been subjected to peer review and publication; (3) the known or potential rate of error of the method used and the existence and maintenance of standards controlling the technique's operation; and (4) whether the theory or method has been generally accepted by the scientific community.

The Court is persuaded that the witness is qualified as an expert in cellular technology and may offer an opinion on the cell site records that will be offered in evidence at trial. The Court

further finds that the witness has scientific knowledge that will assist the trier of fact to understand and/or determine a fact in issue at trial.

IT IS THEREFORE ORDERED AND ADJUDGED that Defendant Nelson's motion *in limine* as to cell site data is, DENIED.

SO ORDERED AND ADJUDGED, this the 9th day of December, 2005.


CHIEF UNITED STATES DISTRICT JUDGE

Criminal No. 3:03-cr-30 WS